

Amendment under 37 C.F.R. §1.114
Attorney Docket No. 062003
Application No. 10/567,152

REMARKS

Claims 1-5 and 7-9 are pending in the present application. Claim 9 is newly added. No new matter has been entered.

Support for new claim 9 is in the specification at, *e.g.*, page 8.

Claim Rejections - 35 U.S.C. § 103

Claims 1-5, 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 11-246728 (**JP ‘728**); and claims 5, 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over **JP ‘728** in view of **Kotani** (US 5,766,751).

Favorable reconsideration is requested.

Applicants respectfully submit that the ratio (A)/(B) as recited in claim 1 is critical and thus, claim 1 is non-obvious. When the prior art discloses an overlapping range, the rejection can be overcome by demonstrating the criticality of the claimed range. Criticality can be shown by evidence of unexpected results.

The Office Action stated that the specification demonstrates some evidence of improved performance with respect to the recited ratio, but that the showing is not commensurate in scope with the present claims. (Office Action, page 4.) However, Applicants have prepared additional data in a Declaration (in addition to the data in the Declaration submitted April 22, 2010 and the data in the present specification) to provide a showing that is commensurate in scope with the present claims and to support that the recited ratio is critical.

JP ‘728 discloses a broad range of ratios of inorganic laminar compound to EVOH on a volume basis of 10/1 to 1/100. (Paragraph 27.) It appears that this broad range may overlap the

range of the mass ratio of (A)/(B) of (30/70) to (50/50). However, the narrower mass ratio range recited in claim 1 provides unexpectedly improved results over the prior art as demonstrated in the present specification, the Declaration submitted April 22, 2010 and the attached Declaration.

The present invention relates to a coating material composition comprising an ethylene-vinyl alcohol copolymer (A) (EVOH), inorganic layered compound (B) (i.e., montmorillonite) and solvent in the specific mass ratio of (A) / (B) and the specific total amount of (A) and (B). Thereby, the coating material composition of the present invention can provide a packaging material which is very transparent and has a high gas-barrier property.

In the present invention, the mass ratio of (A) / (B) is very important to obtain a gas-barrier layer which has high gas-barrier property and high transparency. That is indicated in the Examples in the description (Example 1 and Comparative Examples 1 and 2) and the previous declaration (Examples 2 and 3). Thus, the gas-barrier property and transparency is mainly due to the range of mass ratio of (A) / (B).

In addition, the specific range of the total amount of (A) and (B) is defined in claim 1. This is important in terms of forming a gas-barrier layer. As indicated in the description, when the total amount of (A) and (B) was lower than the recited range of claim 1 (Comparative Example 3), a number of repetitions of the coating operation is required to obtain a layer equivalent in gas-barrier properties to that of Example 1 (Comparative Example 3; page 24, lines 10 to 13 in the description). Also, when the total amount of (A) and (B) was higher than the range specified according to the invention, the composition was lacking in fluidity and failed to give any uniform coat layer (Comparative Example 4; page 21, lines 28 to 32 in the description).

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Thus, the total amount of (A) and (B) is important in terms of forming a gas-barrier layer rather than providing the high gas-barrier property and transparency.

The attached declaration includes additional data in the case that the total amount of (A) and (B) is 1% and 16%, respectively. As shown in the declaration, in these Examples (Examples 4 and 5), which have the range of the total amount of (A) and (B) according to claim 1, gas-barrier layers which have high gas-barrier property and transparency can be obtained.

Since the recited range of the (A)/(B) ratio provides unexpected results, the recited range of the (A)/(B) ratio is critical, and thus, claim 1 is non-obvious over the cited prior art.

For at least the foregoing reasons, claims 1-5 and 7-9 are patentable over the cited references. Accordingly, withdrawal of the rejections of claims 1-5, 7 and 8 is hereby solicited.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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Attachment: Declaration under 37 C.F.R. § 1.132